

Amendment No. 1 to HB2859

Fowlkes  
Signature of Sponsor

AMEND Senate Bill No. 2689\*

House Bill No. 2859

FILED

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

by deleting SECTIONS 1 through 3 of the printed bill and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 9-8-108(a)(7), is amended by deleting the same in its entirety and by substituting instead the following:

Shall hear claims for compensation by persons wrongfully imprisoned and granted exoneration pursuant to § 40-27-109. Any award made by the board pursuant to this subdivision shall be subject to the following conditions:

A. Compensation payable to such persons shall equal one hundred dollars (\$100) for each day of incarceration served subsequent to the person's conviction, provided the maximum aggregate total of such compensation shall not exceed one million dollars (\$1,000,000).

B. Any amount awarded shall be payable in equal monthly installments until paid in full, unless the person dies prior to receipt of the full amount. The amount of the monthly installments payable hereunder shall be calculated by dividing the non-commuted amount, determined pursuant to subdivision (D) below, by the estimated number of months the claimant will live based upon the claimant's life expectancy at the time of the award as determined from the mortality tables last adopted by the board of trustees of the Tennessee consolidated retirement system pursuant to § 8-34-503.

C. If the person dies without leaving a surviving spouse or surviving minor children, the payments shall cease. Upon the death of the claimant, any monthly installments left remaining shall be paid to the claimant's surviving spouse and surviving minor children in equal portions. The amount payable to the surviving spouse, if any, shall be paid until the surviving spouse's death or remarriage. If the surviving spouse dies or remarries, then the amount that was payable to the surviving spouse shall be divided equally among the claimant's surviving minor

children. Each child shall receive such child's share until reaching majority status or death; whichever occurs first, at which time the amount shall be redistributed equally among the remaining minor children. For purposes of this subdivision, "minor" means any person who has not attained eighteen (18) years of age.

D. Upon motion of the claimant or in the discretion of the board, all or a portion of the compensation payable monthly hereunder may be commuted to a lump sum payment. In determining whether to commute the compensation, the board shall consider whether there exists special needs warranting such commutation, whether the commutation will be in the best interest of the person and whether that person has the ability to wisely manage and control the commuted award irrespective of whether there exists special needs. The claimant has the burden of proving that a lump sum payment is warranted.

E. Any claim for compensation under this subdivision must be filed with the board no later than one (1) year from the date that the claimant is granted exoneration pursuant to § 40-27-109.

F. The state of Tennessee shall have a right of subrogation as provided by law for any amount awarded pursuant to this subsection against any person who willfully and intentionally committed an act or engaged in conduct that directly resulted in or contributed to the wrongful conviction and imprisonment of the claimant.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.